

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

NANSHON WILLIAMS,  
Petitioner,  
v.  
T. VINGA,  
Respondent.

Case No. CV 11-5540-JFW (MLG)  
ORDER DENYING MOTION AND  
DISMISSING ACTION WITHOUT  
PREJUDICE

17 Nanshon Williams, a California state prisoner, has filed a  
18 document with the Court requesting an extension of time in which to  
19 file a petition for writ of habeas corpus. He does not provide any  
20 information concerning the underlying conviction, the status of any  
21 state court proceedings, or any claims for relief. The Court assumes  
22 that he intends to file such a petition, pursuant to 28 U.S.C. §  
23 2254, after he exhausts his state remedies. It appears that  
24 Petitioner is seeking to suspend the running of the one-year  
25 limitations period set forth in 28 U.S.C. § 2244(d) for the filing  
26 of a habeas corpus petition. For the reasons stated below, the motion  
27 is denied and this matter is dismissed without prejudice.

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1       The Constitution's "case or controversy" jurisdictional  
2 requirement precludes the granting of relief like that requested by  
3 Petitioner, because there are no adverse parties before the Court and  
4 there is no concrete dispute for this Court to decide. *See Valley*  
5 *Forge Christian Coll. v. Americans United for Separation of Church*  
6 *and State, Inc.*, 454 U.S. 464, 471 (1982); *Woodford v. Garceau*, 538  
7 U.S. 202, 207-08, 123 S.Ct. 1398, 155 L.Ed.2d 363 (2003) (just as  
8 civil actions in general begin with the filing of a complaint, a  
9 habeas action begins with the filing of an application for habeas  
10 corpus relief), *Bjorn v. Warden*, 2009 WL 1392089 (N.D. Cal. 2009) (In  
11 absence of concrete dispute, federal court cannot grant extension of  
12 time to file habeas corpus petition); *Chairez v. Adams*, 2007 WL  
13 1703750 (N.D. Cal. 2007) ("In the absence of an actual petition for  
14 a writ of habeas corpus or other civil complaint, there is no case  
15 or controversy for this Court to adjudicate."); *In re Brockett*, 2006  
16 WL 1329675 (N.D. Cal. 2006); *see also United States v. Leon*, 203 F.3d  
17 162, 164 (2d Cir. 2000) (holding that a federal court lacks  
18 jurisdiction to consider the timeliness of a § 2255 petition until  
19 a petition actually is filed); *United States v. Clarke*, 1998 WL  
20 91069, at \*1 (D. Conn. 1998) (denying request for extension of  
21 limitations period to file § 2255 motion).

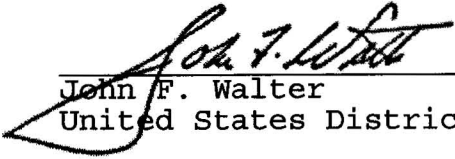
22       Petitioner must file a habeas corpus petition in this Court  
23 before the Court may act upon either his substantive claims or on any  
24 claim that he might be entitled to equitable tolling of the  
25 limitations period. The Court simply does not have jurisdiction to  
26 give an advisory opinion as to the timeliness of a petition.

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1 For the foregoing reason, the motion is DENIED and this action  
2 is dismissed without prejudice.

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4 Dated: July 19, 2011  
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8 John F. Walter  
United States District Judge

9 Presented By:

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12 Marc L. Goldman  
13 United States Magistrate Judge  
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